

A Review and History of Supreme Court Rulings Related to Title I of the Americans with Disabilities Act

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The Americans with Disabilities Act of 1990 (ADA) provides broad protections from disability-based discrimination in a broad array of categories. Title I of the ADA applies to employment of persons with disabilities, and congressional language relevant to the act indicates that disability-based discrimination in employment was a key provision. However, during the early years of the ADA the Supreme Court, through a series of decisions, interpreted the legislation in ways that weakened these protections. The following article is a historical review of these cases, the Court's reasoning, and the successful efforts of Congress to restore the fullest possible protections for persons with disabilities in the workplace.

In 1990 Congress passed the Americans with Disabilities Act (ADA), Pub. L. 101-336, 104 Stat. 327, to provide protections from discrimination for persons with disabilities in the broad categories of employment, public entities and public transportation, commercial facilities and public accommodations, and telecommunications. The ADA is the federal recognition of the rights of persons with disabilities to the full benefits of citizenship. The findings of Congress state "individuals with disabilities continually encounter various forms of discrimination, including outright intentional exclusion, the discriminatory effects of architectural, transportation, and communication barriers, overprotective rules and policies, failure to make modifications to existing facilities and practices, exclusionary qualification standards and criteria, segregation, and relegation to lesser services, programs, activities, benefits, jobs, or other opportunities," 42 U.S.C. § 12101(a)(5) and "the continuing existence of unfair and unnecessary discrimination and prejudice denies people with disabilities the opportunity to compete on an equal basis and to pursue those opportunities for which our free society is justifiably famous, and costs the United States billions of dollars in unnecessary expenses resulting from dependency and nonproductivity." 42 U.S.C. § 12101(a)(8).

Laws passed by Congress must have a basis in constitutional law, and must, if challenged, bear up to this challenge under the scrutiny of the Supreme Court. The rights of persons with disabilities to the benefits of citizenship have been interpreted differently in regard to different types of rights. The history of the Court's treatment of discrimination related to those elements of the ADA other than employment has seen affirmation of the intent of Congress in the Act. In regard to employment, however, the Court has often been at odds with the language of the Act. This has included narrowed definitions of disability and rejection of certain protections that it has historically recognized for other minority groups.

The purpose of this article is to review the history of ADA protections in employment for persons with disabilities. This review will include a review of both actions by the Court and congressional responses. To place this review in context, a review of principles and rules relevant to fundamental rights, employment law, and protection of civil rights is presented.

Fundamental Rights

Fundamental rights of citizens of the United States are vested in the United States Constitution, largely through the Bill of Rights. The Bill of Rights composes the first ten amendments to the Constitution, and the first eight amendments provide protection from federal government interference in a wide array of actions related to freedoms of expression, rights to due process, certain rights to property, rights in proceedings of courts, and others. U.S. Const. amends. I-VIII. Each of the rights enshrined in the Bill of Rights are not absolute, however, and the boundaries have been established through decisions of the Supreme Court (Court) over the history of the republic.

Amendment Nine to the Constitution is sometimes viewed as a source of rights of citizens beyond those enshrined in the Bill of Rights proper. The Amendment states, "The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people." U.S. Const. Amend. IX. In practice, the Ninth Amendment is not viewed as conveying rights in and of itself, but rather is used by the Court to justify the recognition of fundamental rights of citizens beyond those actually enumerated in the Constitution itself (Chemerinsky, 2009). The Court on occasion will recognize fundamental rights through cases that come before it, and has done this numerous times. Some of the fundamental rights recognized outside of the Bill of Rights, and the cases in which they were recognized, include the right to marry (*Loving v. Virginia*, 388 U.S. 1 (1967)), the right to procreate (*Skinner v. Oklahoma*, 316 U.S. 545 (1942)), the right to use contraception (*Griswold v. Connecticut*, 381 U.S. 479 (1965)), the right to have an abortion (*Roe v. Wade*, 410 U.S. 113 (1973)), the right to refuse medical treatment (*Cruzan v. Director, Missouri Dept. of Health*, 497 U.S. 261 (1990)), and the right to interstate travel (*Saenz v. Roe*, 326 U.S. 489 (1999)).

Fundamental rights are considered to be virtually sacrosanct, but only within rational limits. When a right has been recognized as a fundamental right, the Court may nonetheless place or recognize certain restrictions to it. In other circumstances, the right might be taken away but only after due process requirements are met, meaning that the individual has a right to notice of their right being in jeopardy, a right to challenge this in a hearing, and equitable application of the law to their case.

Enforcing Fundamental Rights

The government and the states have powers to enforce laws either nationally or within their own boundaries. Each branch of the federal government has certain enumerated powers permitting it to perform certain actions of government. Those of the legislative branch may be found in Article I of the Constitution, those of the executive branch in Article II, and of the judicial branch in Article III. U.S. Const. arts. 1-3. The legislative branch has the greatest power to create protections in law for the rights of citizens, but in order to do so it must act within its enumerated powers within the Constitution.

Many of the enumerated powers of Congress are created to perform those acts which states could not do efficiently or without causing confusion or conflict, such as national defense or minting of money. One of the enumerated powers has become very effective, however, in allowing Congress to pass civil rights legislation, that of the Commerce Clause. The Commerce Clause states indicates that Congress has the power "To regulate Commerce with foreign Nations, and among the several States, and with the Indian Tribes." U.S. Const., art. 1, § 8, cl. 3. This power was used only in a very limited way until the 1930s, when the Court began to make decisions permitting sweeping economic regulation in accordance with the New Deal. In the 1960s, Congress began passing civil rights legislation, most notably the Civil Rights Act of 1964, Pub. L. 88-352, 78 Stat. 241, to affect discriminatory activity by private (as opposed to public) entities using the rationale that commercial activities were part of the stream of interstate commerce and thus within Congress's regulatory purview, a view that was upheld by the Court in numerous subsequent decisions.

While the Commerce Clause gives Congress regulatory power over private entities engaged in commercial activity, power to regulate state activity is somewhat more complicated. Because the United States is a federal system, states are technically independent from the federal government in those

actions that are not specifically forbidden to them by the Constitution. The Bill of Rights itself was initially viewed by the Court as applicable only to federal government action and not actions by individual states. *Barron v. Baltimore*, 32 U.S. (7 Pet.) (1833). Furthermore, states were protected by the principle of sovereign immunity, preventing them from liability of suits by private citizens, after the ratification of the Constitution's Eleventh Amendment in 1795 ("The Judicial power of the United States shall not be construed to extend to any suit in law or equity, commenced or prosecuted against one of the United States by Citizens of another State, or by Citizens or Subjects of any Foreign State.). U.S. Const. amend. XI.

This changed in 1868 with the passage of the Fourteenth Amendment to the Constitution. The Fourteenth Amendment states, in part:

All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws. U.S. Const. amend. XIV, § 1.

This amendment was significant in several ways. First, it gave a constitutional definition to "citizenship," which had been lacking since its original writing. Secondly, it recognized the rights of citizens to protection of the law and forbade states from creating laws that abridged these rights with inequity, or without provisions for due process. The other significant element of the Fourteenth Amendment was Section 5, which simply states, "The Congress shall have power to enforce, by appropriate legislation, the provisions of this article." U.S. Const., amend. XIV, § 5. Section 5 gives Congress the power to breach state sovereign immunity and it can impose restrictions on state lawmaking that burden fundamental rights or attempt to apply the law differently to groups of individuals who share some indelible characteristic, such as a particular racial classification or national origin.

The Court began to analyze cases of laws that propose to burden fundamental rights or which make distinctions to "discrete and insular minorities," *United States v. Carolene Products Co.*, 304 U.S. 134 (1938) beginning in the 1930s. Such laws are permitted to stand only if there is a compelling justification for such action, that the remedy proposed by the law is the least restrictive method to obtain the desired outcome, and that the law is tailored narrowly in regard to its usurpation of rights. Other laws are usually analyzed only with ordinary scrutiny under what is called the rational basis test, meaning that the law must have a rational relationship to a legitimate government purpose. Thus, when the state or federal government creates a law using a legitimate regulatory power that does not infringe on basic freedoms or make group distinctions, the law is usually allowed to stand.

The use of heightened scrutiny and rational basis reasoning has factored into the Court's view of laws concerning persons with disabilities, both in regard to Title I and state action under Title II.

Work, in a generic sense, has never been recognized as a fundamental right by the Court, although discrimination by states against certain groups can be sanctioned by Congress using either the Fourteenth Amendment or the Commerce Clause. State action would need to be sanctioned using the Fourteenth Amendment, and specifically Title I of the ADA, covering employment, would be the rationale for Congress to do so. However, the Court found, in *Board of Trustees of University of Alabama v. Garrett*, 531 U.S. 356 (2001), that state employees cannot breach sovereign immunity of a state to receive punitive monetary damages, reasoning that the congressional empowerment to invoke Fourteenth Amendment remedies only applies where there has been a historical record of unconstitutional discrimination against a group of citizens, and such record did not exist in regard to state actions in employment against persons with disabilities. The holding states: Congress is the final authority as to desirable public policy, but in order to authorize private individuals to recover money damages against the States, there must be a pattern of discrimination by the States which violates the Fourteenth Amendment, and the remedy imposed by Congress must be congruent and proportional to the targeted violation. Those requirements are not met here, and to uphold the Act's application to the States would allow Congress to rewrite the Fourteenth Amendment(.) *Garrett* at 374.

Note, however, that the decision did not limit injunctive relief such as an order to apply ADA-based remedies to restore the employees to their jobs.

In regard to Title II, claims concerning state actions in public accommodations, as opposed to employment claims, the Court has upheld the use of the Fourteenth Amendment in its decision in *Tennessee v. Lane*, 541 U.S. 509 (2004). Access to public facilities such as courts and courthouses must be made accessible as demanded by the ADA; to fail to do so denies persons with disabilities the right to numerous fundamental rights. The Court did find the kind of historical unconstitutional discrimination against persons with disabilities that justify Congressional application of the Fourteenth Amendment, and abrogation of sovereign immunity.

The Commerce Clause applies to congressional actions of private employers in regard to Title I of the ADA. These claims, including punitive damages claims, have been allowed to move forward, but not without controversy in the early days of the ADA. The definition of disability, who is a person with a disability, and the application of these matters was modified significantly by the Court in a series of cases in the late 1990s and early 2000s. The remainder of this article discusses the history of these actions by the Court and the congressional legislative response to restore the fullest protections for persons with disabilities under Title I.

Title I of the ADA: Employment

Title I of the ADA includes definitions of terms that are familiar to those who work with persons with disabilities who are seeking employment, such as qualified individual, reasonable accommodation, and undue hardship. 42 U.S.C. 126 §§ 12111 (8-10). Discrimination in employment is defined at 42 U.S.C. 126 § 12112, with the general rule stated as, “No covered entity shall discriminate against a qualified individual on the basis of disability in regard to job application procedures, the hiring, advancement, or discharge of employees, employee compensation, job training, and other terms, conditions, and privileges of employment,” 42 U.S.C. 126 § 12112 (a). Within the early years of the ADA, however, the Act was weakened by a series of rulings by the Court determining the meaning of the term “disability” as it is applied to employment. The four cases that are relevant in this history are the three cases of the *Sutton* trilogy and *Toyota Motor Manufacturing, Kentucky, Inc. v. Williams*.

The Sutton Trilogy. June 22, 1999 was a significant day in the history of Title I of the ADA. On this date the Court delivered three rulings which limited the definition of disability and, as a result, protections for persons with disabilities in employment. These three cases became known as the *Sutton* trilogy after the leading and most verbose ruling, that in *Sutton v. United Air Lines, Inc.*, 527 U.S. 471 (1999). The plaintiffs were twin sisters with severe myopic vision, correctible to 20/20 with corrective lenses, were denied training by the defendant airline in 1992 after applying for employment as commercial airline pilots based on the airline’s policy that applicants must have uncorrected vision of 20/100 or better. The plaintiffs sued the airline claiming discrimination on the basis of disability, or alternately as being regarded as a person with a disability, under the ADA. Plaintiffs also pointed to Equal Employment Opportunity Commission (EEOC) guidelines that indicated that the presence of disability should be considered without use of mitigating measures. The lower courts held that plaintiffs did not have a disability because they were unimpaired in any major life activity because their vision was correctible, nor should they be considered as having a disability. The Court affirmed the decision of the lower courts, with the holding tied to considerations of “mitigating measures” that improve physical function, and ruled that the determination of disability must be made after the effects of mitigating measures are taken into consideration. Justice O’Connor, writing for the majority, stated in the holding:

The Act defines a “disability” as “a physical or mental impairment that *substantially limits* one or more of the major life activities” of an individual. Because the phrase “substantially limits” appears in the Act in the present indicative verb form, we think the language is properly read as requiring that a person be presently—not potentially or hypothetically—substantially limited in order to demonstrate a disability. A “disability” exists only where an impairment “substantially

limits” a major life activity, not where it “might,” “could,” or “would” be substantially limiting if mitigating measures were not taken. A person whose physical or mental impairment is corrected by medication or other measures does not have an impairment that presently “substantially limits” a major life activity. To be sure, a person whose physical or mental impairment is corrected by mitigating measures still has an impairment, but if the impairment is corrected it does not “substantially limi[t]” a major life activity.

The definition of disability also requires that disabilities be evaluated “with respect to an individual” and be determined based on whether an impairment substantially limits the “major life activities of such individual.” Thus, whether a person has a disability under the ADA is an individualized inquiry. (. . .)

The (EEOC) guidelines’ directive that persons be judged in their uncorrected or unmitigated state runs directly counter to the individualized inquiry mandated by the ADA. The agency approach would often require courts and employers to speculate about a person’s condition and would, in many cases, force them to make a disability determination based on general information about how an uncorrected impairment usually affects individuals, rather than on the individual’s actual condition. For instance, under this view, courts would almost certainly find all diabetics to be disabled, because if they failed to monitor their blood sugar levels and administer insulin, they would almost certainly be substantially limited in one or more major life activities. A diabetic whose illness does not impair his or her daily activities would therefore be considered disabled simply because he or she has diabetes. Thus, the guidelines approach would create a system in which persons often must be treated as members of a group of people with similar impairments, rather than as individuals. This is contrary to both the letter and the spirit of the ADA. *Sutton* at 481-84. (Citations omitted).

The effect of the *Sutton* case was to eliminate vast numbers of people from the class of persons with disabilities. The holding justified this position by citing language in the text of the ADA itself giving the number of people with disabilities as 43 million, and rationalized that if unmitigated medical conditions were included in the congressional intent in the Act, this number would be much higher. *Sutton* at 487. In addition, the Court held that to be substantially impaired in the major life activity of working an individual must be unable to perform a “broad class of jobs,” rather than a single position. This too had the effect of limiting the protections for persons with disabilities in employment under the ADA. *Sutton* at 491-94.

The other two component cases of the *Sutton* trilogy reached similar conclusions. *Murphy v. United Parcel Service, Inc.*, 527 U.S. 517 (1999), a mechanic was hired for a job with an essential function of driving heavy vehicles and requiring health certification from the Department of Transportation. The plaintiff had long-standing hypertension and did not meet the requirements for the health certification, but, nonetheless, it was erroneously granted. After one month the error was discovered, the certification revoked, and the plaintiff dismissed from the job. Citing *Sutton*, ruled the Court found that medication mitigated medical condition, did not limit him from performing major life activities, and therefore the plaintiff was not a person with a disability as defined by the ADA. Working was not viewed as an impaired life activity because the Petitioner was capable of performing numerous jobs as a mechanic that did not involve driving heavy vehicles. *Albertson’s, Inc. v. Kirkinburg*, 527 U.S. 555 (1999) was the third case in the trilogy and also concerned an erroneous certifications for truck driving, but in regard to amblyopia (unequal vision between left and right eyes), with the error discovered after approximately one year. The employee, however, was eligible for and was granted a waiver under an experimental program from the Department of Transportation. The defendant Albertson’s had meanwhile dismissed the driver and refused reinstatement to reinstate even after the waiver had been granted. The Court, similar to the other two cases, held that the plaintiff employee did not have a disability, and that a “difference” in how the employee saw was different from a “significant restriction” in how they saw; therefore, there was not a significant limitation in a major life activity. Rather than considering whether the employee was limited from a broad range of jobs, the Court justified its holding on the basis that the defendant employer was not required to participate in a regulatory experiment of a federal agency and could dismiss the employee using existing regulations.

After the *Sutton* trilogy the definition of disability had essentially been rewritten by the Court. The effect was to in essence rewrite the ADA in such a way that its potential effects were far less potent. A final case, *Toyota Motor Manufacturing, Kentucky, Inc. v. Williams*, further limited the employment protections of the ADA.

Toyota Motor Manufacturing, Kentucky v. Williams. *Toyota Motor Manufacturing, Kentucky, Inc. v. Williams*, 534 U.S. 184 (2002), decided three years after the *Sutton* trilogy, was another case in which the Court limited the employment protections of the ADA, and like the trilogy the Court provided its own definitions of disability. The plaintiff was an employee at the defendant's automobile manufacturing plant and was initially employed as a production worker, but acquired carpal tunnel syndrome and tendinitis, filed a workers' compensation claim which was settled, and returned to work after filing an ADA complaint. Plaintiff was placed in a quality control operation which had four components, but those operations that required more manual activity were taken out of her rotation. After approximately three years the defendant required her to begin performing the full cycle of quality control tasks, including those that required more use of her upper extremities. This led to increased absences and an eventual medical order of no work of any kind, at which point the defendant terminated the plaintiff for poor work attendance.

The plaintiff brought suit under the ADA and other statutes, claiming protections as a person with a disability via limitations in major life activities of "(1) manual tasks; (2) housework; (3) gardening; (4) playing with her children; (5) lifting; and (6) working" (*Toyota* at 190) and also as a person with a record of impairment and being regarded as having an impairment. The trial court rejected plaintiff's claims of disability, rejecting the notion that gardening, playing with children, or housework were major life activities, and while accepted that manual tasks, lifting and working were major life activities that the plaintiff defeated her claim that she was disabled through insistence that she could perform certain tasks at her former employer. On appeal, the Sixth Circuit Court of Appeals reversed the decision, holding that her inability to perform a full range of manual tasks (without considering the issue of lifting or working) disqualified her from a broad class of employment, and thus the plaintiff was disabled.

The Supreme Court reversed the decision of the appeals court and in doing so considered the question of "the proper standard for assessing whether an individual is substantially limited in performing manual tasks." *Toyota* at 192. Justice O'Connor, writing for the majority, explained how the court arrived at that standard:

"Major life activities" (. . .) refers to those activities that are of central importance to daily life. In order for performing manual tasks to fit into this category—a category that includes such basic abilities as walking, seeing, and hearing—the manual tasks in question must be central to daily life. If each of the tasks included in the major life activity of performing manual tasks does not independently qualify as a major life activity, then together they must do so.

That these terms need to be interpreted strictly to create a demanding standard for qualifying as disabled is confirmed by the first section of the ADA, which lays out the legislative findings and purposes that motivate the Act. When it enacted the ADA in 1990, Congress found that "some 43,000,000 Americans have one or more physical or mental disabilities." If Congress intended everyone with a physical impairment that precluded the performance of some isolated, unimportant, or particularly difficult manual task to qualify as disabled, the number of disabled Americans would surely have been much higher.

We therefore hold that to be substantially limited in performing manual tasks, an individual must have an impairment that prevents or severely restricts the individual from doing activities that are of central importance to most people's daily lives. The impairment's impact must also be permanent or long term. (. . .)

When addressing the major life activity of performing manual tasks, the central inquiry must be whether the claimant is unable to perform the variety of tasks central to most people's daily lives, not whether the claimant is unable to perform the tasks associated with her specific job. (. . .) There is also no support in the Act, our previous opinions, or the regulations for the Court of

Appeals' idea that the question of whether an impairment constitutes a disability is to be answered only by analyzing the effect of the impairment in the workplace. Indeed, the fact that the Act's definition of "disability" applies not only to Title I of the Act, which deals with employment, but also to the other portions of the Act, which deal with subjects such as public transportation and privately provided public accommodations demonstrates that the definition is intended to cover individuals with disabling impairments regardless of whether the individuals have any connection to a workplace. Even more critically, the manual tasks unique to any particular job are not necessarily important parts of most people's lives. As a result, occupation-specific tasks may have only limited relevance to the manual task inquiry. (. . .)

In addition, (...) even after her condition worsened, she could still brush her teeth, wash her face, bathe, tend her flower garden, fix breakfast, do laundry, and pick up around the house. The record also indicates that her medical conditions caused her to avoid sweeping, to quit dancing, to occasionally seek help dressing, and to reduce how often she plays with her children, gardens, and drives long distances. But these changes in her life did not amount to such severe restrictions in the activities that are of central importance to most people's daily lives that they establish a manual task disability as a matter of law. *Toyota* at 197-202. (Citations omitted).

Coupled with the *Sutton* trilogy, *Toyota* appeared to place virtually impossible barriers to claims of workplace discrimination under Title I. In the process of attempting to clarify the meaning of disability under the ADA, the Court interpreted congressional language to apply Title I only to those who had, seemingly, vast functional difficulties in virtually every aspect of a major life function. This situation endured until 2008 when congress took action to correct the meaning of the ADA and moot these previous decisions.

Congressional Response to the *Sutton* Trilogy and *Toyota*. In response to the Court's decisions limiting the definition of disability in the ADA, congress passed the Americans with Disabilities Act Amendments Act (ADAAA) (Pub. L. 110-325, 122 Stat, 3553) in 2008. The language of this Act was incorporated into and where necessary superseded the language of the original ADA. Specifically, the ADAAA eliminated the language referring to 43 million Americans with disabilities which the Court had found significant in its earlier holdings. ADAAA specifies that the definition of disability should be broadly construed, as it had been in regard to Section 504 of the Rehabilitation Act of 1973 (Pub. L. 93-112, 87 Stat. 355, codified at 29 U.S.C 701 *et. seq.*), and specifically instructed the Court to apply the definition of disability applied in *School Board of Nassau County v. Arline*, 480 U.S. 273 (1987). In that case, the Court used Department of Health and Human Services definitions for a (physical) disability as "[A]ny physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive, digestive, genito-urinary; hemic and lymphatic; skin; and endocrine," and for major life activities as "functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working." *Arline* at 208. The ruling also spoke to the meaning of persons regarded as having a disability. Justice Brennan, writing for the majority, stated:

By amending the definition of "handicapped individual" to include not only those who are actually physically impaired, but also those who are regarded as impaired and who, as a result, are substantially limited in a major life activity, Congress acknowledged that society's accumulated myths and fears about disability and disease are as handicapping as are the physical limitations that flow from actual impairment. *Arline* at 284.

The definition of disability present in *Arline* is more inclusive and provides greater protection in employment to persons with disabilities than the Court's earlier rulings. Congressional action appears to have had the desired effect. The ruling appears to have alleviated confusion concerning the definition of disability in the courts, and since 2008 no major Title I cases have found their way to the Supreme Court. It appears that the ADAAA has had the desired effect in restoring employment protections to persons with disabilities to the full extent possible, at least with private employers.

Conclusions

Congress has demonstrated a desire to protect the rights of persons with disabilities in employment when it passed the Americans with Disabilities Act. However, the language of the Act in its original form was found to be open to interpretation, especially in regard to the definition of disability, and the Court chose to rule in such a way that it limited those protections by redefining disability. Congress then reaffirmed intentions by passing the Americans with Disabilities Act Amendments Act in 2008, mooting the previous decisions of the Court. The Court has not disturbed these stronger and broader definitions of disability, providing protections in employment to a much larger group of people than in its earlier limiting ruling.

The constitutional history of the United States demonstrates a desire to expand fundamental rights and to provide protections for those who are members of vulnerable groups. Employment is not and has never been a fundamental right, and the Courts, as shown in *Tennessee v. Lane*, have not recognized discrimination against persons with disabilities as similar to the discrimination against other vulnerable populations in regard to state hiring and employment decisions. Therefore, in regard to employment, the Fourteenth Amendment and its strong protections has not been permitted as a means to protect persons with disabilities in this manner. However, the Congress and the Court's actions in regard to private employment, and other titles of the ADA, have nonetheless shown a strong commitment to defining the right of persons with disabilities to those privileges to which all citizens are entitled.

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